IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Appeal No.492-SB of 1995

Date of Decision: March 15, 2007

Suresh Kumar and another

...Appellants

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE RANJIT SINGH

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr.Pawan Girdhar, Advocate,
for the appellants.

Mr.Yashwinder Singh, AAG, Haryana,
for the State.

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RANJIT SINGH, J.

The appellants, upon conviction for an offence under Sections 307/324/323 IPC were sentenced to suffer RI for four years and to pay a fine of Rs.1000/- each under Section 307 IPC. They were further directed to undergo RI for three months in default of payment of fine. They have impugned their conviction and sentence by way of present appeal.

The prosecution story as revealed from the evidence is that Umesh

and Om Parkash were employed as drivers with Transport Company at Delhi. Umesh used to borrow money from Om Parkash and as such a sum of Rs.11,500/- became due to Umesh towards Om Parkash. Dharambir, brother of Om Parkash, sought payment of this amount from Umesh, who disclosed this fact to his family members. Dharambir was summoned and told that he would not have any locus to demand repayment of the amount as this was a dealing between Umesh and Om parkash. Six months thereafter, on 2.8.1992, while Dharambir was passing in front of the house of the accused in village Jainpur, accused Naresh confronted him with his action of demanding money and the fact that his brother Suman was also doing so. Dharabir in turn told Naresh that he would advise his brother Suman not to demand repayment of the money. Karambir (PW-7), Ram Naresh (PW-8) and Chander Bhan also reached the scene. While this was happening, Suresh and Binnu @ Vinod also came out of their houses armed with knives. Declaring that they were going to make payment, Binnu @ Vinod gave a blow with knife into the abdomen of Karambir. Suresh gave three knife blows on the chest, abdomen and ribs of Dharambir. Having done that, they ran away from the scene in a pick up brought by Umesh, Dharambir and Karambir injured were taken to the Civil Hospital, Sonepat. Subsequently, they were referred to the Medical College and Hospital, Rohtak. The injuries suffered by them were declared dangerous to life by Dr.H.R.Singal and Dr.Madan Gopal. FIR was registered at Police Station, Ghanaur, ultimately leading to trial and conviction, as afore-mentioned.

When given opportunity to explain circumstances

appearing in evidence against them, the accused-appellants controverted the allegations and pleaded that they were falsely implicated due to enmity. They further pleaded that Dharambir and Karambir had received injuries from some outsiders, but they are falsely roped in by the police.

The prosecution, in order to prove the charges against the appellants, had examined fifteen witnesses including two injured Dharambir and Karambir. The prosecution case was supported by Dharambir (PW-6), who was injured and he gave a clear and categoric evidence that Binnu @ Vinod gave knife blow on the abdomen of his brother Karambir. He also deposed about the role played by Suresh in giving three knife blows in chest, ribs and abdomen of the witness (PW-6). Similarly, PW-7 also supported the case of the prosecution and also lend support to the evidence given by Dharambir (PW-6). Their version is well supported by the medical evidence on record, which was given by two doctors, namely, H.R.Singal and Madan Gopal. The plea of the defence that there was delay in lodging the FIR was found to be having no effect on the case when appreciated and noticed in the background that the statement of injured Dharambir was recorded by ASI Satya Parkash on 4.8.1992, while he was in Medical College and Hospital, Rohtak. This place was at a distance of 16 Kms. from the scene of occurrence. The perusal of the evidence and the facts emerging from the record would show that the prosecution had succeeded in proving its case against present appellants Suresh and Binnu. Umesh and Naresh were, however, acquitted by the trial court, which is not under challenge. No case for interference is made out against the

conviction of the appellant as recorded.

At this stage, the counsel for the appellants pleads for leniency in this case mainly on the ground that incident is old and belated. The occurrence took place on 2.8.1992 and the appellants were convicted on 14.7.1995. Thus, they faced this prosecution for almost three years. Present appeal is pending since 1995. The sentence awarded to the appellants was suspended on 30.10.1995. Obviously the appellants have suffered the agony of this prosecution and trial for a considerably long period of about 15 years. It can be noticed that this incident occurred due to a minor dispute of dealing in money matters. There does not seem to be any serious cause of differences or disputes between the parties. Asking the appellants now to undergo sentence at this stage may sound harsh. While considering the question of punishment, the court cannot remain untouched by considering the humane criterion. Correction and not cruelty should be the aim of punishment and correction is to be informed by compassion. Requiring the appellants to undergo imprisonment at this stage may lead to their degeneration. By now, the appellants have undergone about 3-1/2 months of sentence.

Having regard to these factors, the sentence awarded to the appellants would stand reduced to a period already undergone by them.

March 15, 2007 (RANJIT SINGH)
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